

Message Text

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ACTION EUR-25

INFO OCT-01 AF-10 ARA-16 NEA-14 ISO-00 CIAE-00 PM-07 H-03

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SS-20 USIA-15 SAM-01 OMB-01 SAJ-01 NIC-01 DRC-01 EB-11

TRSE-00 /156 W

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P R 171700Z MAY 74

FM AMEMBASSY LISBON

TO SECSTATE WASHDC PRIORITY 9629

INFO AMEMBASSY BRASILIA

AMEMBASSY CONAKRY

AMEMBASSY DAKAR

AMCONSUL LOURENCO MARQUES

AMCONSUL LUANDA

AMEMBASSY LUSAKA

AMEMBASSY MADRID

AMCONSUL OPORTO

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E.O. 11652: N/A

TAGS: PGOV PO

SUBJ: NEW TEMPORARY CONSTITUTIONAL STRUCTURE ESTABLISHED

REF: (A) LISBON 1950; (B) LISBON 1949

SUMMARY: NATIONAL SALVATION JUNTA HAS PROMULGATED LAW

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AMENDING 1933 CONSTITUTION. LAW ESTABLISHES POLITICAL

ORGANIZATION WHICH WILL BE IN FORCE PENDING APPROVAL OF NEW CONSTITUTION BY CONSTITUENT ASSEMBLY SUMMER OF 1975. (ALSO SET OUT IS PROCEDURE FOR ELABORATION OF NEW LAW GOVERNING ELECTIONS OF MEMBERS TO CONSTITUENT ASSEMBLY). LAW DEFINES SIX ORGANS OF GOVERNMENT WHICH WILL EXERCISE INTERIM POLITICAL POWER, AND OUTLINES POWERS OF EACH. ARMED FORCES STRUCTURE INDEPENDENT FROM THAT OF PROVISIONAL GOVERNMENT, AND CHIEF OF STAFF OF ARMED FORCES ELEVATED TO SAME LEVEL AS PRIME MINISTER. NEW DEFENSE PLANNING GROUP HEADED BY PRESIDENT CREATED AT SAME TIME. LAW SHOWS POWER FIRMLY INSTITUTIONALIZED IN MILITARY, AND GIVES PREDOMINANT ROLE TO PRESIDENT. CERTAIN QUESTIONS LEFT UNCLEAR, SUCH AS WHETHER REFERENDUM WILL BE CALLED TO APPROVE FUTURE CONSTITUTION. END SUMMARY.

1. TEMPORARY "CONSTITUTIONAL STRUCTURE" DECREED BY JUNTA MAY 14 (LAW NO. 3/74) TO REGULATE POLITICAL ORGANIZATION UNTIL NEW CONSTITUTION TO BE ELABORATED BY CONSTITUENT ASSEMBLY ENTERS INTO FORCE. LAW MAKES POINT THAT PREVIOUS CONSTITUTION REMAINS IN EFFECT EXCEPT FOR THOSE PARTS OF IT WHICH ARE CONTRARY TO PRINCIPLES OF ARMED FORCES MOVEMENT (REF A), AND EXCEPT AS SPECIFICALLY AMENDED. LAW BEGINS WITH PROCEDURES LEADING TO PROMULGATION OF NEW CONSTITUTION. FIRST STEP IS PASSING OF NEW ELECTORAL LAW.

2. ELECTORAL LAW: PROVISIONAL GOVERNMENT WILL NOMINATE A COMMISSION TO DRAFT ELECTORAL LAW WITHIN FIFTEEN DAYS OF MAY 16. PROVISIONAL GOVERNMENT WILL CONSIDER DRAFT ELECTORAL LAW, WHICH WILL BE SUBMITTED FOR APPROVAL OF COUNCIL OF STATE IN TIME TO BE PUBLISHED NO LATER THAN NOVEMBER 15, 1974. ELECTORAL LAW WILL SPECIFY NUMBER OF MEMBERS OF CONSTITUENT ASSEMBLY, THEIR QUALIFICATIONS, ELECTORAL DISTRICTS, AND ELECTORAL PROCESS. ONLY STIPULATION IS THAT ELECTIONS MUST BE BY UNIVERSAL SUFFRAGE AND DIRECT AND SECRET VOTE.

3. CONSTITUENT ASSEMBLY: ELECTIONS FOR CONSTITUENT ASSEMBLY WILL TAKE PLACE NO LATER THAN MAR 31, 1975, ACTUAL DATE TO BE FIXED BY PRESIDENT OF REPUBLIC. CONSTITUENT ASSEMBLY WILL CONVENE WITHIN FIFTEEN DAYS OF ITS ELECTION. IT MUST CONSIDER AND APPROVE A CONSTITUTION WITHIN NINETY DAYS, A PERIOD WHICH CAN BE PROLONGED FOR ANOTHER NINETY DAYS BY THE PRESIDENT OF LIMITED OFFICIAL USE

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REPUBLIC AFTER CONSULTATION WITH COUNCIL OF STATE. IF NO CONSTITUTION APPROVED AFTER SECOND 90-DAY PERIOD, ELECTIONS FOR NEW CONSTITUENT ASSEMBLY MUST TAKE PLACE WITHIN 60 DAYS. ONCE CONSTITUTION APPROVED, CONSTITUENT ASSEMBLY WILL DISBAND. (WHAT HAPPENS NEXT WILL DEPEND ON PROVISIONS OF CONSTITUTION, BUT PRESUMABLY WILL INCLUDE GENERAL ELECTIONS).

4. UNTIL NEW CONSTITUTION APPROVED, FOLLOWING SIX ORGANS OF GOVERNMENT WILL EXERCISE INTERIM POLITICAL POWER: CONSTITUENT ASSEMBLY, PRESIDENT OF REPUBLIC, JUNTA OF NATIONAL SALVATION, COUNCIL OF STATE, PROVISIONAL GOVERNMENT, AND "THE COURTS". DUTIES AND ATTRIBUTES EACH HIGHLIGHTED BELOW.

5. PRESIDENT OF REPUBLIC CHOSEN FROM AMONG JUNTA MEMBERS AND IS RESPONSIBLE TO NATION. AMONG OTHER THINGS, ACCORDING LAW, HE ENSURES COMPLIANCE WITH LAWS AND CONSTITUTION; PRESIDES OVER JUNTA, COUNCIL OF MINISTERS, AND COUNCIL OF STATE; NAMES AND DISMISSES MEMBERS OF PROVISIONAL GOVERNMENT; CONVOKES COUNCIL OF STATE AND COUNCIL OF MINISTERS; SETS DATE FOR ELECTION TO CONSTITUENT ASSEMBLY; DIRECTS FOREIGN POLICY; SERVES AS COMMANDER-IN-CHIEF ARMED FORCES; SELECTS THE SEVEN CIVILIAN MEMBERS IN COUNCIL OF STATE; FILLS CERTAIN VACANCIES IN COUNCIL OF STATE; DECLARES, IN CONSULTATION WITH COUNCIL OF STATE, STATE OF SIEGE AND SUSPENSION OF CONSTITUTIONAL GUARANTEES; AND PROMULGATES ALL LAWS AND RESOLUTIONS (WHICH ARE NOT LEGAL WITHOUT HIS SIGNATURE). CERTAIN LIMITED CHECKS ON POWER OF PRESIDENT WRITTEN INTO LAW. UNLESS SPECIFICALLY EXEMPT, HIS "ACTS" MUST BE APPROVED BY PRIME MINISTER AND BY MINISTER(S) WHOSE FUNCTIONAL SPECIALTY INVOLVED.

6. NATIONAL SALVATION JUNTA IS COMPOSED OF SEVEN PERSONS IN MILITARY IN WHOM IS VESTED MANDATE OF ARMED FORCES MOVEMENT (MFA). COUNCIL OF STATE CHARGED WITH FILLING ANY VACANCIES IN JUNTA WITHIN 15 DAYS OF DATE OF VACANCY. JUNTA RESPONSIBLE FOR ENSURING COMPLIANCE WITH PROGRAM OF MFA AND WITH UPHOLDING CONSTITUTION; FOR SELECTION OF PRESIDENT OF REPUBLIC, CHIEF OF GENERAL STAFF OF ARMED FORCES, AND CHIEFS OF STAFF OF RESPECTIVE SERVICES; IT DESIGNATES INTERIM PRESIDENT OF REPUBLIC FROM AMONG ITS MEMBERS IF PRESIDENT UNABLE TO SERVE. UNTIL DISSOLUTION, JUNTA CONSIDERED TO BE IN PERMANENT SESSION. JUNTA DECISIONS REQUIRE LIMITED OFFICIAL USE

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COUNCIL OF STATE, VIRTUALLY MORIBUND DURING DAYS OF SALAZAR AND CAETANO, IS RETAINED WITH EXPANDED ROLE IN NEW SCHEME AND CONSISTS OF THE SEVEN MEMBERS OF JUNTA, SEVEN REPRESENTATIVES OF ARMED FORCES, (CHOSEN BY MFA), AND SEVEN CITIZENS "OF RECOGNIZED MERIT" TO BE DESIGNATED BY PRESIDENT. ON DEATH, RESIGNATION OR PHYSICAL INCAPACITY OF "CITIZEN" OR MFA REPRESENTATIVES ON COUNCIL, PRESIDENT WILL DESIGNATE REPLACEMENT WITHIN 15 DAYS.
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COUNCIL OF STATE'S APPROVAL MUST BE RECEIVED BY PROVISIONAL GOVERNMENT FOR MEASURES RESPECTING THE ELECTION OF CONSTITUENT ASSEMBLY, ECONOMIC, SOCIAL AND FINANCIAL POLICY, CIVIL LIBERTIES, NATIONAL DEFENSE AND GOVERNMENT OF OVERSEAS PROVINCES. IN ADDITION COUNCIL OF STATE IS TO MONITOR ACTS OF PROVISIONAL GOVERNMENT AND HAS POWER TO DECLARE ANY ACT UNCONSTITUTIONAL, MAY AUTHORIZE PRESIDENT TO MAKE WAR OR PEACE, MAY DECLARE PRESIDENT PHYSICALLY INCOMPETENT, AND MAY PRONOUNCE ITSELF IN NATIONAL EMERGENCIES OR ON MAGGERS OF

NATIONAL INTEREST AT PRESIDENT'S REQUEST.

8. PROVISIONAL GOVERNMENT IS POLITICALLY RESPONSIBLE TO PRESIDENT AND WHILE MEETING AS A WHOLE SETS POLICY TO CARRY OUT MFA PROGRAM. IT CONSISTS OF A PRIME MINISTER (WHO MAY RUN ONE OR MORE MINISTRIES HIMSELF), AND OF A NUMBER OF MINISTERS, SECRETARIES AND SUBSECRETARIES.

(FOR NAMES AND BIOGRAPHIC SKETCHES NEW MEMBERS OF GOVERNMENT SEE REF B).

PRESIDENT NAMES AND DISMISSES PRIME MINISTER AND MINISTERS, WHILE PRIME MINISTER PROPOSES AND PRESIDENT NAMES SECRETARIES AND SUBSECRETARIES. WHEN A MINISTER IS DISMISSED, HIS RESPECTIVE SECRETARIES AND SUBSECRETARIES MUST ALSO RESIGN. MINISTERS WITHOUT PORTFOLIO PERFORM DUTIES DELEGATED THEM BY PRIME MINISTER AND HELP WITH INTER-MINISTERIAL COORDINATION. PROVISIONAL GOVERNMENT CONDUCTS GENERAL POLICY, APPROVES ACTS OF PRESIDENT, PASSES DECREES AND APPROVES TREATIES, OVERSEES PUBLIC ADMINISTRATION, AND ELABORATES ELECTORAL LAWS. ANY ACT WHICH INCLUDES INCREASE OR DECREASE IN STATE RECEIPTS MUST BE APPROVED BY MINISTER FOR ECONOMIC COORDINATION. PRIME MINISTER ORDINARILY CONVOKES MEETINGS OF CABINET (ALTHOUGH PRESIDENT MAY ALSO DO SO), PRESIDES OVER IT, AND COORDINATES AND ENSURES COMPLIANCE WITH POLICY DECISIONS AGREED ON BY CABINET.

9. LITTLE SAID ABOUT COURTS, EXCEPT THAT NO SPECIAL POLITICAL COURTS ALLOWED. MILITARY TRIBUNALS CONTINUE TO FUNCTION.

10. IN ADDITION TO SIX CIVILIAN ORGANS OF PROVISIONAL GOVERNMENT MENTIONED ABOVE, A TOTALLY INDEPENDENT ARMED FORCES STRUCTURE EXISTS. ONLY ARMED FORCES LINK TO PROVISIONAL GOVERNMENT IS THROUGH DEFENSE MINISTRY. (UNLIKE FORMER REGIME, WHICH HAD ARMY AND NAVY MINISTRIES, AN AIR FORCE SECRETARIAT, AND AN ARMY SUBSECRETARIAT OF STATE). ROLE OF DEFENSE LIMITED OFFICIAL USE

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MINISTER, OTHER THAN SIMPLE LIAISON BETWEEN CIVILIAN GOVERNMENT AND MILITARY, UNCLEAR. THE CHIEF OF STAFF OF THE ARMED FORCES HAS "IDENTICAL"

CATEGORY" AS PRIME MINISTER BUT IS ONE STEP BELOW PM IN GOVERNMENT HIERARCHY. RESPECTIVE CHIEFS OF STAFF OF THREE SERVICES HANDLE ALL MILITARY AFFAIRS RELATED TO THEIR SERVICES. A HIGH NATIONAL DEFENSE COUNCIL TO COORDINATE NATIONAL DEFENSE POLICY AND ACTIONS SET UP, PRESIDED OVER BY PRESIDENT. PRIME MINISTER, CHIEF OF STAFF OF ARMED FORCES, AND MINISTERS OF DEFENSE, FOREIGN AFFAIRS, ECONOMIC COORDINATION AND INTERTERRITORIAL COORDINATION, AND THREE SERVICE CHIEFS OF STAFF FORM THIS COUNCIL, ALTHOUGH PRESIDENT OF REPUBLIC MAY INVITE OTHER MINISTERS, OVERSEAS GOVERNORS, OR GOVERNORS GENERAL TO PARTICIPATE IF SUBJECT UNDER CONSIDERATION REQUIRES THEIR PRESENCE. (OVERSEAS GOVERNORS GENERAL AND GOVERNORS RAISED TO MINISTERIAL AND SECRETARY RANK BY OTHER PROVISION OF THIS

NEW LAW).

COMMENT: 11. MOST STRIKING FEATURE THIS LAW IS DEGREE TO WHICH POWER FIRMLY RETAINED IN MILITARY HANDS. TWO-THIRDS OF COUNCIL OF STATE ARE MILITARY OFFICERS, IN ADDITION TO WHICH NATIONAL SALVATION JUNTA RETAINS ITS SEPARATE IDENTITY AS "DEFENDER OF THE FAITH". FURTHERMORE CHIEF OF STAFF OF ARMED FORCES ELEVATED TO ORGANIZATIONAL PAR WITH PRIME MINISTER, ALTHOUGH SUBORDINATE IN PROTOCOL HIERARCHY. ALSO NOTEWORTHY IS IMPORTANCE OF PRESIDENT WHO HAS VETO POWER OVER COUNCIL OF STATE AND CABINET, AND WHO CLEARLY IS MOST IMPORTANT FIGURE IN GOVERNMENT.

12. CERTAIN POINTS ARE UNCLEAR. FOR EXAMPLE, LAW SAYS THAT CONSTITUENT ASSEMBLY WILL DRAW UP AND APPROVE NEW CONSTITUTION. NO MENTION MADE OF REFERENDUM ON CONSTITUTION, ALTHOUGH PRESIDENT SPINOLA IN SPEECH ON OCCASION HIS INVESTITURE MAY 15 REMARKED THAT NATION'S FUNDAMENTAL LAW WOULD BE SUBJECT TO A REFERENDUM BY PEOPLE.
SCOTT

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Disposition Case Number: n/a
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